

ENVIRONMENTAL QUALITY

CHAPTER 56

UNDERGROUND STORAGE TANKS
PETROLEUM AND CHEMICAL SUBSTANCES

Sub-Chapter 10

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Tank Fees and Delegation to Local Governments

17.56.1001 TANK FEE SCHEDULE (1) Owners or operators of underground storage tanks which have not been closed in accordance with ARM 17.56.702 shall pay an annual registration fee to the department for each underground storage tank owned or operated. In order to schedule annual renewal dates, the department may prorate the registration fee to cover registration periods not equal to 12 months.

(2) Owners or operators of the following underground storage tanks shall pay the following annual registration fees in accordance with (1) before the department will issue a tank certificate under (3):

(a) underground storage tanks with a capacity of more than 1,100 gallons, \$108 per tank;

(b) underground storage tanks with a capacity of 1,100 gallons or less, \$36 per tank.

(3) The annual tank registration fees in (2) apply to annual tank registration fees that are due on or after January 1, 2004.

(4) Upon receipt of the appropriate registration fee, the department shall issue a facility registration certificate listing each underground storage tank for which the fee was paid.

(5) The department shall issue a replacement registration certificate to an owner or operator after submission of satisfactory evidence that the certificate has been lost or destroyed. (History: 75-11-505, MCA; IMP, 75-11-505, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 1998 MAR p. 3108, Eff. 11/20/98; AMD, 1999 MAR p. 2858, Eff. 12/17/99; AMD, 2003 MAR p. 2759, Eff. 12/12/03.)

17.56.1002 GRANTS TO LOCAL GOVERNMENTAL UNITS (1) Local governmental units may apply for grants from the department for the purposes of designation under ARM 17.56.1003. Grant money received from the department may be used only for the purchase of equipment or basic training of personnel or both necessary for designation under ARM 17.56.1003 and specified by the department. Grant money received from the department may not be used for equipment or training not required for designation under ARM 17.56.1003 and not specified by the department. Grants are generally limited to the amount of \$2,000.00 per local governmental unit for equipment or personnel training, or

both, or to such other amount specified in the written notice of grant award made by the department. No grant may be made or used for any equipment, training or period of time following designation under ARM 17.56.1003, unless approved by the department. Grantees shall comply with all conditions and requirements contained in the written notice of grant award.

(2) Applications for award of a grant shall be submitted to the department on a form prescribed by the department. The form shall include and the applicant shall provide, the following information:

- (a) the official name and address of the applicant;
- (b) the name, address and telephone number of the person preparing the grant request;
- (c) the amount of the grant being requested;
- (d) the purpose for which the grant is requested;
- (e) if for equipment, a list of the equipment, followed by a description of each item of equipment, including the actual or estimated cost of the item, and the manufacturer and supplier, for each piece of equipment intended to be purchased;
- (f) if for training, a list of those personnel who will attend the training, followed by a description of the training, including the cost, location, and provider of the training, for each person intended to be trained; and
- (g) a narrative of how the equipment or training will be used in the program for which the grant is sought.

(3) Grant applications must also contain a letter of intent, signed by the chief financial officer of the local governmental unit submitting the grant application, stating the intent of the local governmental unit to use the grant money applied for only for the purposes of equipment or training for the purposes of application for designation under ARM 17.56.1003 and to abide by any grant conditions specified by the department.

(4) The grant application, together with all lists and descriptions shall be sent to the department no later than 90 days prior to the date on which the grant funds are expected or needed by the applicant. Upon receipt of the application the department shall review it for completeness and notify the applicant of any missing information or other deficiency in the application. Upon receipt of a completed application the department shall make its determination concerning the approval or disapproval of the grant application. An application may be approved for all or any part of the grant applied for. The department shall issue the grant award upon approval of the application.

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(5) The department may approve or disapprove any grant application in whole or in part. In approving or disapproving an application for a grant under this rule, the department shall consider:

(a) the extent to which training or equipment is necessary for designation under ARM 17.56.1003;

(b) the extent to which the training or equipment applied for fulfills the designation needs of the applicant;

(c) the extent to which the same training or equipment is available from another source at a lower cost;

(d) the nature of the applicant's program for which certification will be sought;

(e) the availability of other equipment, training or financial resources to the applicant;

(f) the amount of grant funds available to the department; and

(g) the extent to which grant applications of the applicant have previously been approved or disapproved.

(6) Grant awards approved under (4) may be spent only for the purposes for which applied and approved. The department may request and the grantee shall provide any proof requested by the department showing that the grantee complied with the requirements of this section. (History: 75-10-405, MCA; IMP, 75-10-405, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259.)

17.56.1003 DESIGNATION OF LOCAL UST PROGRAMS (1) A local governmental unit may apply to the department for designation as an implementing agency for the purposes of implementing underground storage tank systems leak prevention and inspection programs conducted by and within that local governmental unit. Upon designation under this rule, an implementing agency may apply to the department for reimbursement of authorized services, in the manner provided by ARM 17.56.1004, and may enforce any rule in ARM Title 17, chapter 56, which it is authorized or required by any such rule to administer, in the same manner in which the department is authorized to enforce these rules.

(2) Applications for designation as an implementing agency shall be submitted to the department on a form prescribed by the department. The form shall include and the applicant shall provide the following information:

- (a) the official name and address of the applicant;
- (b) the name, address and telephone number of the person preparing the application for designation;
- (c) a list of all the personnel to be used directly by the applicant in conducting the designated program, including for each such person, the person's:
 - (i) name, address and business telephone number; and
 - (ii) education, training, and experience in the professional, technical or programmatic area to which each person for whom reimbursement will be sought will be assigned in the local program.
- (d) a listing of all major equipment to be used directly by the applicant in conducting the program for which designation is sought, including the names of the operators of the equipment;
- (e) a description of the operation of the professional, technical or programmatic services to be conducted by the program, including the names of those persons directly involved in the service; and
- (f) a listing of those services for which reimbursement will be sought from the department after program designation, including the names of the person(s) providing the service, and the approximate total cost of the program per year.

(3) Designation applications must also contain a letter of intent, signed by the chief administrative officer of the local governmental unit submitting the application, stating an intent to abide by these rules and any conditions contained in the department's letter of designation.

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(4) The application for designation, together with all descriptions, lists, forms and other exhibits shall be sent to the department no later than 90 days prior to the date on which designation is expected or intended by the applicant. Upon receipt of the application the department shall review it for completeness and notify the applicant of any missing information or other deficiency in the application. Upon receipt of a completed application, the department shall make its determination concerning the approval or disapproval of the application. An application may be approved for all or any part of or under different terms than the designation applied for. The department shall issue the designation letter upon approval of the application.

(5) In approving or disapproving an application for designation under this rule, the department shall consider:

(a) The extent to which the training, equipment and personnel of the program will allow the local governmental unit to conduct competent inspections and enforcement to ensure compliance with these rules by owners and operators;

(b) The ability of the applicant to maintain appropriate records of costs for which reimbursement will be sought;

(c) The extent to which the applicant is or will be able to comply with the Montana Quality Assurance Plan for Inspections of Releases from Underground Storage Tanks;

(d) The extent to which the designation and resulting reimbursement will contribute to the viability of the applicant's program;

(e) The desirability of having an implementing agency in the geographic area of the applicant; and

(f) The amount of department funds available for reimbursement for the applicant's program.

(6) Within 30 days of approval of an application for designation the department shall issue a letter to the local governmental unit designating it as an implementing agency. The designation letter shall state that the local governmental unit is enabled to seek and receive reimbursement for authorized services and shall set forth any conditions or limitations determined necessary by the department. A designated local governmental unit shall enforce rules governing underground storage tank systems that it is authorized or required by any rule to administer.

(7) A local governmental unit designated by the department pursuant to this rule as an implementing agency shall immediately notify the department in writing when its ability to perform services authorized by these rules and the designation letter is lost, diminished or otherwise jeopardized by the loss or unavailability of trained personnel or equipment. Upon notification, the designation of the local governmental unit may be suspended by the department until such time as the local governmental unit provides evidence satisfactory to the department that the condition resulting in suspension has been remedied. The department may request and the local governmental unit shall provide, information determined necessary to redesignate a local unit of government following suspension under this subsection. (History: 75-10-405, MCA; IMP, 75-10-405, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259, Eff. 7/1/95; AMD, 2000 MAR p. 969, Eff. 4/14/00.)

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17.56.1004 IMPLEMENTING AGENCY PROGRAM SERVICES AND REIMBURSEMENT

(1) Upon receipt of the department's designation of a local governmental unit as an implementing agency, the implementing agency office or program personnel shall at the request of the department and at other times as necessary, conduct authorized services on behalf of the department subject to the limitations or conditions contained in the department's letter of designation.

(2) Services conducted by an implementing agency shall be conducted in accordance with ARM Title 17, chapter 56, applicable industry standards, and limitations or conditions contained in the department's letter of designation. An implementing agency shall during the first 10 days of every calendar quarter, prepare and send to the department a report summarizing, in a manner acceptable to the department, all activity undertaken in the immediately preceding calendar quarter. Implementing agency personnel shall, at the request of the department, provide the department with copies of any inspection report, record, statement, time sheet, enforcement document or other document relating to services for which reimbursement is or may be sought under these rules.

(3) Each implementing agency shall maintain accurate and complete records of the time and services for which reimbursement will be sought under this rule. By the tenth day of each calendar quarter, the implementing agency shall send to the department on a form determined by the department a statement showing the number of hours, to the nearest one-half of an hour, spent by each person in the performance of authorized services during the previous calendar quarter for which reimbursement is being claimed. The form shall designate the site and date for which the activity was conducted. The chief financial officer of each implementing agency submitting a statement shall on the face of the statement attest to the validity and accuracy of the statement. Upon receipt of the statement, the department shall determine whether sufficient information is contained in the statement and supporting material for reimbursement to be paid under this rule. The department shall notify the implementing agency of any deficiency. Upon receipt of sufficient information showing authorized services were carried out during the previous calendar quarter in accordance with ARM Title 17, chapter 56, applicable industry standards and any limitations or conditions

contained in the department's designation letter, the department shall reimburse the local governmental unit at the rate of \$35.00 per hour. Claims for reimbursement not in accordance with this rule shall be denied. Claims shall be paid only within the limitations of departmental budgets and legislative appropriations.

(4) Payments made under this rule shall be made no more frequently than quarterly by state warrant to the treasurer of the implementing agency. An implementing agency receiving reimbursement under this rule shall use the payment received only for expenses incurred in conducting authorized services under these rules. (History: 75-10-405, MCA; IMP, 75-10-405, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2000 MAR p. 969, Eff. 4/14/00.)

17.56.1005 REVOCATION AND SURRENDER OF DESIGNATION

(1) The department shall issue a letter to an implementing agency revoking the designation issued pursuant to ARM 17.56.1003 whenever the department determines that there is substantial evidence that:

(a) The implementing agency is not conducting authorized services in accordance with ARM Title 17, chapter 56, applicable industry standards or limitations or conditions contained in the department's designation letter;

(b) The implementing agency has intentionally submitted a claim for reimbursement for services which were not performed;

(c) Conditions exist warranting suspension of designation under ARM 17.56.1003 and those conditions show little or no hope of abating; or

(d) Insufficient funding exists at the current level of expenditure for the department to maintain the designation.

(2) A revocation of designation by the department is effective upon written or oral notice to the local governmental unit. Following revocation, the local governmental unit may not submit claims for services to the department which services were performed following revocation. Any claims so submitted are considered denied. The department shall reimburse the local unit of government for services performed in accordance with these rules prior to revocation of designation.

(3) An implementing agency designated under ARM 17.56.1003 may surrender the designation of its program by 30 days written notice to the department accompanied by the surrender of its current designation letter. Services shall be conducted by the local governmental unit and reimbursement made pending receipt by the department of the notice required by this rule. Upon receipt of the notice, no reimbursement may be made for subsequent services by the local governmental unit. The department shall reimburse the local government unit for services performed in accordance with these rules prior to surrender of designation.

(4) A revocation of designation by the department under this rule may be appealed in writing to the director. The appeal shall be initiated by a letter to the director from the local governmental unit setting forth the grounds for appeal and attaching any written evidence relevant to the appeal, to which the department shall file a similar response. The director shall determine the appeal on the basis of the written submittals and shall sustain the revocation if he determines that there is substantial evidence of the conditions in (1)(a), (b), (c) or (d). The rules of civil procedure and evidence and Title 2, chapter 4, MCA, do not apply to the director's determination under this rule. The revocation is effective pending appeal to the director. (History: 75-10-405, MCA; IMP, 75-10-405, MCA; NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2000 MAR p. 969, Eff. 4/14/00.)

